

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 366 – SB 1604

March 22, 2021

SUMMARY OF BILL: Prohibits governmental entities from requiring right-of-way (ROW) dedications as a condition of approval for certain applications. Authorizes governmental entities to require ROW reservations. Requires governmental entities taking possession of property within ROW reservations to compensate the property owner.

ESTIMATED FISCAL IMPACT:

On February 1, 2020, a fiscal note was issued for this legislation estimated a fiscal impact as follows:

Increase Local Expenditures –

*Exceeds \$1,000,000/FY21-22 and Subsequent Years**

After further consideration, it was determined the fiscal impact was in error. As a result, the estimated fiscal impact has been corrected as follows:

(CORRECTED)

Increase Local Expenditures –

Exceeds \$250,000/FY21-22 and Subsequent Years*

Other Fiscal Impact – Removing mandatory ROW dedications will result in the maintenance of current local property tax revenues. A precise avoidance of permissive decreases in local government property tax revenue cannot reasonably be determined.

Corrected Assumptions:

- Pursuant to Tenn. Code Ann. § 13-3-105, after the creation of a regional planning commission, the Department of Transportation is not liable for any costs associated with the acquisition of ROW for any highway or other public improvement within the region. The proposed language will not result in any significant fiscal impact to state government.
- Regional planning commissions and local governments currently require ROW dedications as a condition of final plat approvals so that such ROW may be utilized for future improvements to roads and utilities which provide direct benefit to such property.

- When such property is dedicated for ROW usage, it is removed from assessment for property taxes, as it becomes the property of the local government and not private property owners.
- The proposed language would prohibit ROW dedications as a condition of such approval and further establish that if a governmental entity subsequently needed to take possession of such land, it would do so through eminent domain.
- Requiring governmental entities to utilize eminent domain in order to utilize land which otherwise would have been under the control of such governmental entity will result in a mandatory, recurring increase in local government expenditures.
- A precise increase in local expenditures is dependent upon multiple unknown factors such as: the extent of land acquired through eminent domain; the value of such land; the extent of court costs associated with eminent domain proceedings; and the number of occurrences statewide annually; however, each occurrence is estimated to result in an increase in local expenditures exceeding \$10,000.
- Given the extent of development within the state, it is reasonably estimated that in any given fiscal year, there will be at least 25 instances of eminent domain utilized to take possession of such property; therefore, it is reasonably estimated there will be a mandatory, recurring increase in local expenditures exceeding \$250,000 (25 x \$10,000) in FY21-22 and subsequent years.
- The proposed language will not result in an increase in property tax revenue; however, it will result in the maintenance of current property tax revenue levels as such ROWs remain under the ownership of private parties. A precise avoidance of permissive decreases in local government property tax revenue cannot reasonably be determined.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

IMPACT TO COMMERCE:

Increase Business Revenue – Exceeds \$100,000/FY21-22 and Subsequent Years

Assumptions:

- Payments by local governments through eminent domain will be paid to private property owners.
- In the absence of dedicated ROWs, it is estimated that private businesses which sell property will be able to sell such plats at a higher price.
- The precise increase in business revenue is dependent upon multiple unknown factors such as the extent of a property which otherwise would have been dedicated ROW, the number of properties such businesses sell, and the price per acre of such property. It is reasonably estimated the proposed language will result in a recurring increase in business revenue exceeding \$100,000 statewide beginning in FY21-22 and occurring in subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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